

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow, are respectfully requested.

Claim 12 has been amended to include the feature of claim 13 and to specify that the tubular connector has two concentric passages, one for injecting inert gas and one for purging overhead gas. Support for the amendments may be found in Figure 2 and page 5, lines 12-17, of the specification. Claim 12 has also been amended to emphasize that the present invention relates to a device per se rather than a combination of the device and a vat. Allowed claim 21 has been written as new claim 23. New claims 24-26 have been added directed to the combination of device and vat. Claim 12 and 14-26 are currently pending in this application.

Page 2 of the Office Action includes a recommendation that the specification be amended to add paragraph headings. The Preliminary Amendment filed November 5, 2003 amended the specification to include paragraph headings.

Applicants acknowledge with appreciation the early indication that claim 21 is directed to patentable subject matter.

An Information Disclosure Statement (IDS) was filed November 5, 2003, along with a PTO-1449 form listing the documents of record in the parent application. A copy of that IDS and PTO-1449 form is attached and it is requested that an Examiner-initialed copy of the PTO-1449 form be returned to Applicant. It is noted that the issue date of U.S. Patent No. 597,955 to Ciani should correctly be 01-1898.

Claims 12, 13, 15-17 and 22 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,911,212 to Burton for the reasons given on page 3 of the Office Action. Claims 14 and 18-20 were rejected under 35 U.S.C. §103(a) as unpatentable over Burton '212

for the reasons given on page 4 of the Office Action. Reconsideration and withdrawal of these rejections are respectfully requested in view of the above amendments and for at least the following reasons.

The Office Action refers to the device of Burton '212 as including a downward extending injection tube 69 and a tubular connector 62. Respectfully, Applicant disagrees with this interpretation. Item 62 in Burton '212 is a bottle cap (column 3, lines 38-40). As shown in Figure 5, item 62 is not tubular in shape but appears to be a conventional bottle cap. It is not designed to convey anything but to seal the bottle opening.

Item 69 is referred to in the reference as a basket (column 5, lines 21 and 26). Item 69 likewise does not appear to be tubular and is not designed to convey a fluid or a solid material.

Claim 12 now specifies that the tubular connector has two concentric passages, one for an incoming inert gas and one to convey a gas being exhausted. The filling device of Burton '212 does not have a tubular connector with two concentric passages.

With respect to claim 14, the Office Action argues that the feature of a horizontal plate larger than the cross section of the injection tube is "an obvious matter of design choice" (page 4). Respectfully, Applicant disagrees with this position. Burton '212 does not appear to disclose or suggest a gas diffuser having a horizontal plate closing off a lower end of the diffuser. Further, the specific structure of the plate is important in contributing to the effectiveness of the claimed device, i.e., creating a piston-like effect which quickly replaces the overhead gas in the vat with the inerting gas. This is discussed in the specification; see page 4, line 37 to page 5, line 2. Accordingly, the structural feature set forth in claim 14 is more than just "a design choice."

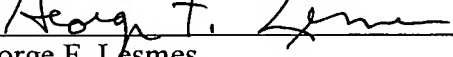
For at least the above reasons, the §§102(b) and 103(a) rejections over Burton '212 should be withdrawn. Such action is earnestly requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683 at his earliest convenience.

Respectfully submitted,

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